

REMARKS

The Applicants have carefully reviewed the Office Action mailed September 3, 2008 and thanks Examiner Ligerakis for his detailed review of the pending claims. In response to the Office action, Applicants have amended claims 15, 21, 25 and 27 and cancelled claims 17-20, 22-24, 26, and 29-30. Claims 1-14 were previously cancelled. No new matter has been added. Accordingly, claims 15-16, 21, 25, 27-28, and 31-35 remain pending in this application. At least for the reasons set forth below, Applicants respectfully traverse the foregoing rejections.

As Applicants' remarks with respect to the Examiner's rejections are sufficient to overcome these rejections, Applicants' silence as to assertions by the Examiner in the Office Action or certain requirements that may be applicable to such rejections (e.g., whether a reference constitutes prior art, motivation to combine references, assertions as to dependent claims, etc.) is not a concession by Applicants that such assertions are accurate or such requirements have been met, and Applicants reserve the right to analyze and dispute such assertions/requirements in the future. Further, for any instances in which the Examiner took Official Notice in the Office Action, Applicants expressly do not acquiesce to the taking of Official Notice, and respectfully request that the Examiner provide an affidavit to support the Official Notice taken in the next Office Action, as required by 37 CFR 1.104(d)(2) and MPEP § 2144.03. Applicants respectfully request reconsideration of the present application in view of the above amendment and the following remarks.

Claim Rejections – 35 U.S.C. § 102

Claims 15-16, 21, 34 and 35 were rejected under 35 U.S.C. 102(e) as being anticipated by Sakata (US 2003/0230461). Applicants respectfully traverse the rejection.

1. The Law

To anticipate a claim, the reference must teach every element of the claim. A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference. *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). The identical invention must be shown

in as complete detail as is contained in the ... claim. *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989).

2. **Sakata (US 2003/0230461)**

Independent claim 15 has been amended to recite that “a filter in the hydraulic system located between the housing and the first connection of the pump; and an antechamber in the housing between the aperture and the first connection, the antechamber being in communication with the filter for permitting the supply of fluid from the housing to the first connection,” (emphasis added). Support for these amendments can be found in at least previously presented dependent claims 19 and 22, as well as paragraphs [0017] and [0018] of the specification and FIG. 1.

Sakata does not teach all of the recitations found in claim 15 and therefore cannot anticipate independent claim 15. Applicants specifically draw attention to paragraph [0034], as well as FIG. 2 of Sakata (reproduced below for the Examiner’s convenience) to demonstrate Sakata only teaches a suction passage 37 for sucking oil and “is arranged within the side wall unit 3a” of the coupling case 3. That is, Sakata only teaches a suction passage 37, and does not teach or suggest “a filter.” Indeed, the Examiner admits that Sakata “fails to disclose a filter contained in an aperture in the hydraulic system between the housing and the first connection of the pump,” (*see Office Action, page 5*).

Moreover, Sakata does not teach or suggest that the suction passage 37 is “in communication with the filter for permitting the supply of fluid from the housing to the first connection,” as Sakata only teaches that “[t]he suction passage 37 is connected to the oil pump 4 and is opened to the coupling case 3,” (emphasis added) (*see paragraph [0034]*). Accordingly, Sakata does not teach every recitation of independent claim 15, as required by *Verdegaal Bros.*

Dependent claims 16, 21, 34 and 35 depend from patentable independent claim 15 and include additional recitations that are separately patentable. Merely by way of example, claim 16 recites “wherein the pump is adapted to convey oil from the housing to the hydraulic chamber and vice versa.” Sakata does not teach these features. Accordingly, withdrawal of the rejection is respectfully requested.

1. The Law

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“The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, not in the applicant’s disclosure.” *In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991).

2. Sakata (US 2003/0230461) in view of Gassmann (US Pat. No 6,318,532)

Claims 25 and 27 were rejected under 35 U.S.C. 103(a) as being unpatentable over Sakata et al. (U.S. 2003/0230461) in view of Gassmann (U.S. Patent No. 6,318,532). Applicants respectfully traverse the rejection.

Dependent claims 25 and 27 each depend on independent claim 15. Amended independent claim 15 recites, in part:

a hydraulic system for supplying the cylinder unit, comprising a quantity of oil jointly contained in the housing and in the hydraulic chamber, and a pump having a first connection connected to the housing and a second connection connected to the hydraulic chamber, the pump is firmly connected to the housing and, in the housing, there is provided an aperture connecting the first connection to an interior of the housing and a channel connecting the second connection to the hydraulic chamber;

a filter in the hydraulic system located between the housing and the first connection of the pump; and

an antechamber in the housing between the aperture and the first connection, the antechamber being in communication with the filter for permitting the supply of fluid from the housing to the first connection.

(Emphasis added.)

Support for these amendments can be found in at least previously presented dependent claims 19 and 22, as well as paragraphs [0017] and [0018] of the specification and FIG. 1.

The Examiner admits that Sakata “fails to disclose a filter contained in an aperture in the hydraulic system between the housing and the first connection of the pump,” (*see Office Action*,

page 5). Moreover, as discussed above, Applicants specifically draw attention to paragraph [0037] and FIG. 2 of Sakata (reproduced above for the Examiner's convenience) to illustrate that Sakata only teaches a suction passage 37 for sucking oil. Sakata certainly does not teach or suggest "a filter in the hydraulic system located between the housing and the first connection of the pump" nor "the antechamber in communication with the filter for permitting the supply of fluid from the housing to the first connection."

Further, and contrary to the Examiner's assertions, Gassmann does not teach "a filter in the hydraulic system located between the housing and the first connection of the pump." Indeed, a close reading of Gassmann reveals that Gassman only teaches an oil strainer 102, where "where oil is sucked from the oil reservoir 100 in the differential drive through an oil strainer 102 up through a suction channel 104," (*see column 5, lines 32-35 and FIG. 1, reproduced below for the Examiner's convenience*), and not a filter "located between the housing and the first connection of the pump." In other words, Gassmann only teaches that the oil strainer 102 is arranged between the oil reservoir 100, and the suction channel 104 (*see FIG. 1 below*), and not "located between the housing and the first connection of the pump," where the first connection is included with "a pump having a first connection connected to the housing." Indeed, as best seen in FIG. 1, Gassmann only teaches that the oil strainer 102 is between the oil reservoir 100 and the suction channel 104, and does not teach or suggest that the oil strainer may be connected to the pump 24 or to the pump housing 20. Therefore, the combination of Sakata and Gassmann does not teach all the recitations of independent claim 15 as required by *In re Royka*.

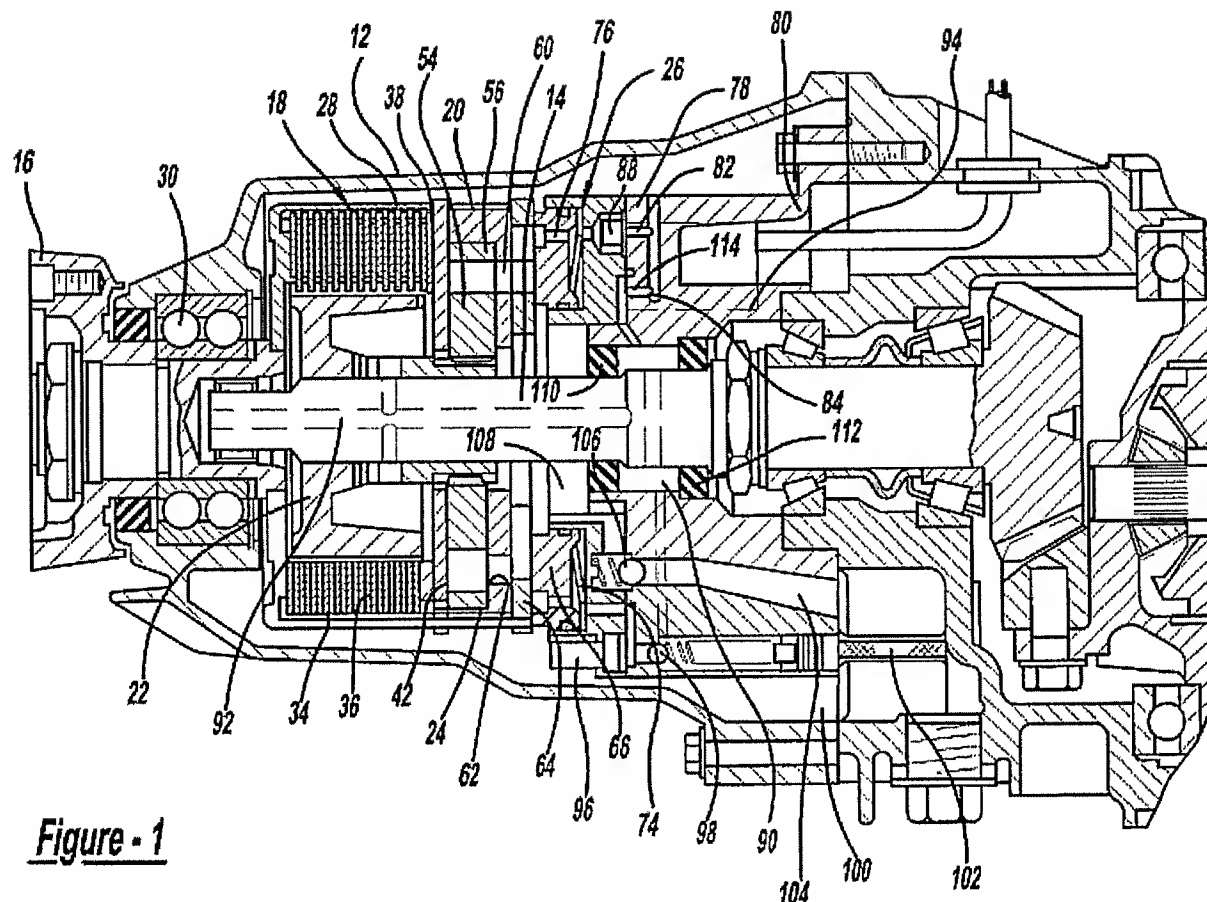


Figure - 1

FIG. 1 of Gassmann

3. Sakata in view of Suzuki et al. (U.S. 2002/01627722)

Claims 28 and 31 were rejected under 35 U.S.C. 103(a) as being unpatentable over Sakata et al. in view of Suzuki et al. (U.S. 2002/01627722).

Claims 28 and 31 depend on claim 15. The remarks presented above with respect to the claim 15 rejections are equally applicable here. Specifically, the inadequacy Sakata to teach every element of independent claim 15 by not teaching “a filter in the hydraulic system located between the housing and the first connection of the pump; and an antechamber in the housing between the aperture and the first connection, the antechamber being in communication with the filter for

permitting the supply of fluid from the housing to the first connection,” is also fatal to the Examiner’s rejection in light of Suzuki. Indeed, Suzuki does not make up for the inadequacy described above with the combination of Sakata. Therefore, the combination of Sakata and Suzuki does not teach every recitation of claim 15, as required in *In re Royka*.

4. Sakata et al. in view of Bachmann et al. (U.S. 2003/0072665)

Claims 32 and 33 were rejected under 35 U.S.C. 103(a) as being unpatentable over Sakata et al. in view of Bachmann et al. (U.S. 2003/0072665). Applicants respectfully traverse the rejections.

Claims 32 and 33 depend on claim 15. The remarks presented above with respect to the claim 15 rejections are equally applicable here. Specifically, the inadequacy Sakata to teach every element of independent claim 15 by not teaching “a filter in the hydraulic system located between the housing and the first connection of the pump; and an antechamber in the housing between the aperture and the first connection, the antechamber being in communication with the filter for permitting the supply of fluid from the housing to the first connection,” is also fatal to the Examiner’s rejection in light of Bachmann. Indeed, Bachmann does not make up for the inadequacy described above with the combination of Sakata. Therefore, the combination of Sakata and Bachmann does not teach every recitation of claim 15, as required in *In re Royka*.

CONCLUSION

In view of the above amendment, applicant believes the pending application is in condition for allowance. If, however, there are any outstanding issues that can be resolved by telephone conference, the Examiner is earnestly encouraged to telephone the undersigned representative.

Applicant believes no fee is due with this response. However, if a fee is due, please charge our Deposit Account No. 18-0013, under Order No. 66968-0006 from which the undersigned is authorized to draw.

Dated: December 3, 2008

Respectfully submitted,

By /Kristin L. Murphy/

Kristin L. Murphy

Registration No.: 41,212

RADER, FISHMAN & GRAUER PLLC

Correspondence Customer Number: 10291

Attorney for Applicant